

21 September 1956

MEMORANDUM FOR: Mr. Houston

SUBJECT: Further Thoughts Concerning the Possibility of
an Injunction in the [REDACTED] Case.

25X1A

1. The attached study is a supplement to the original memo considering possible courses of action against [REDACTED]. I have directed my attention to the possibility of obtaining an injunction and a short discussion of Title 18 USC 3043, which is similar to a peace bond.

25X1A

25X1A


2. The main problem in obtaining an injunction against [REDACTED] is establishing an interest which an equity court will protect. To this end I have discussed two possible theories which would provide equity jurisdiction. I term these the "contract theory" and the "public interest theory." The "contract theory" is by far the strongest of the two and is the one on which we would probably stand or fall. The "public interest theory" does reinforce the main argument. It would not have much chance standing alone in the absence of a contract.

3. In brief our argument to a court of equity would be as follows: A valid contract exists with [REDACTED] - his secrecy agreement executed at the time, and as a condition, of his employment. It is not void as against public policy, but in fact is in the national interest. Equity should grant an injunction to prevent the threatened breach of the negative contract. This would be following the unanimous American and English rule that equity will enforce an express contract of an employee not to reveal the secrets of an employer or any valid contract to protect secrets. There are limitless cases to this effect, but the Bliss case would be emphasized as being closest to our problem. This case is discussed at length in the attached study.

25X1A

4. The strongest rebuttal to this argument can be made by distinguishing the many supporting cases by the fact that they concern property rights which equity will protect, and then proceeding to argue that the government's interest in maintaining the secrecy of national intelligence is not a

property right and thus not one which equity will protect. At this point I think that, if brought up at all, it can be successfully countered. In conclusion there is a good chance that an injunction would be granted.

25X1A


Office of General Counsel

Attachment

ILLEGIB


SECRET